

REFERENCE TITLE: identity theft; factual innocence

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2321

Introduced by
Representatives Driggs, Pancrazi, Schapira, Thrasher: Adams, Cajero
Bedford, Campbell CL, Clark, Crandall, Crump, Gallardo, McGuire, Senator
Aguirre

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 17;
RELATING TO DECLARATION OF INNOCENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended
3 by adding article 17, to read:

4 ARTICLE 17. DECLARATION OF INNOCENCE

5 12-771. Factual innocence; judicial determination; procedure

6 A. A PERSON WHO IS A VICTIM OF IDENTITY THEFT MAY PETITION THE
7 SUPERIOR COURT OR THE COURT, ON ITS OWN MOTION OR ON THE APPLICATION OF THE
8 PROSECUTING ATTORNEY, MAY MOVE FOR AN EXPEDITED JUDICIAL DETERMINATION OF A
9 VICTIM'S FACTUAL INNOCENCE IF ANOTHER PERSON IS ARRESTED FOR, CITED FOR,
10 CHARGED WITH, INDICTED FOR OR CONVICTED OF AN OFFENSE INVOLVING IDENTITY
11 THEFT UNDER THE VICTIM'S NAME OR IF THE VICTIM'S NAME HAS BEEN MISTAKENLY
12 ASSOCIATED WITH A RECORD OF A CRIMINAL CONVICTION.

13 B. IN MAKING A JUDICIAL DETERMINATION OF FACTUAL INNOCENCE, THE COURT
14 SHALL CONSIDER ANY DECLARATION, AFFIDAVIT, POLICE REPORT OR OTHER EVIDENCE
15 THAT IS RELEVANT AND RELIABLE INFORMATION AND THAT IS SUBMITTED BY THE
16 PARTIES OR ORDERED TO BE PART OF THE RECORD BY THE COURT. IF THE COURT
17 DETERMINES THAT THE PETITION IS MERITORIOUS AND THAT THERE IS NO REASONABLE
18 CAUSE TO BELIEVE THE VICTIM COMMITTED THE OFFENSE FOR WHICH THE OTHER PERSON
19 WAS ARRESTED, CITED, CHARGED, INDICTED OR CONVICTED, THE COURT SHALL FIND THE
20 VICTIM FACTUALLY INNOCENT OF THAT OFFENSE AND ISSUE AN ORDER CERTIFYING THIS
21 DETERMINATION.

22 C. IF A COURT ISSUES A DETERMINATION OF FACTUAL INNOCENCE, THE COURT
23 MAY ORDER THAT THE ACCUSED OR CONVICTED PERSON'S NAME AND ASSOCIATED PERSONAL
24 INFORMATION CONTAINED IN COURT RECORDS, FILES AND INDEXES ACCESSIBLE BY THE
25 PUBLIC BE DELETED, SEALED OR LABELED TO SHOW THAT THE INFORMATION IS
26 IMPERSONATED AND DOES NOT REFLECT THE ACCUSED OR CONVICTED PERSON'S TRUE
27 IDENTITY.

28 D. IF THE COURT FINDS THAT ANY INFORMATION SUBMITTED IN SUPPORT OF THE
29 PETITION CONTAINS ANY MATERIAL MISREPRESENTATION OR FRAUD, THE COURT MAY
30 VACATE THE DETERMINATION OF FACTUAL INNOCENCE.